

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MR. CARLOS MUHAMMAD,
Petitioner,

CIVIL ACTION

v.

GOV. RENDALL; GOV. CORBITT;
MAYOR MICHAEL NUTTER; D.A.R.
SETH WILLIAMS; COMMISSIONER
CHARLES H. RAMSEY; FREDDIE
HARRIS; JOSE AVARADO; JAMES
BORDONI; and PENNSYLVANIA,
BOARD OF PROBATION AND PAROLE.,
Respondents.

NO. 13-6566

ORDER

AND NOW, this 5th day of August, 2015, upon consideration of *pro se* petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (Document No. 1, filed November 8, 2013), *pro se* petitioner's Motion of Objections To Magistrate Adjudicating Petitioner's Claim (Document No. 22, filed March 2, 2015), Respondents' Motion To Dismiss Habeas Petition as Second/Successive (Document No. 27, filed April 27, 2015), the Report and Recommendation of Magistrate Judge Linda K. Caracappa dated May 29, 2015, the Court noting that, although *pro se* petitioner was granted an extension of time to July 15, 2015, for responding to Respondents' Motion To Dismiss Habeas Petition and for filing objections to the Report and Recommendation by Order dated June 11, 2015, *pro se* petitioner failed to do so, and good cause appearing, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Linda K. Caracappa dated May 29, 2015 is **APPROVED AND ADOPTED**;
2. *Pro se* petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 is **DISMISSED WITHOUT PREJUDICE** to *pro se* petitioner's right to seek approval to file a

second or successive petition for writ of habeas corpus under 28 U.S.C. § 2254 from the United States Court of Appeals for the Third Circuit under 28 U.S.C. § 2244(b)(3)(A);

3. Respondents' Motion To Dismiss Habeas Petition as Second/Successive is **DENIED AS MOOT** in view of the approval and adoption of the Report and Recommendation of the United States Magistrate Judge Linda K. Caracappa dated May 29, 2015, and the dismissal without prejudice of *pro se* petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254;

4. *Pro se* petitioner's Motion of Objections To Magistrate Adjudicating Petitioner's Claim is **DENIED AS MOOT**;¹ and,

5. A certificate of appealability will not issue because reasonable jurists would not debate (a) this Court's decision that the petition does not state a valid claim of the denial of a constitutional right, or (b) the propriety of this Court's procedural ruling with respect to petitioner's claim. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

BY THE COURT:

/s/ **Hon. Jan E. DuBois**

DuBOIS, JAN E., J.

¹ This Motion was referred to Magistrate Judge Caracappa for a Report and Recommendation by Order dated March 12, 2015. It was mooted by the Court's Memorandum and Order dated June 25, 2015, denying *pro se* petitioner's similar Motion for Recusal by Affidavit (Document No. 42, filed June 16, 2015.)